

European Union Agency for Fundamental Rights, selection of relevant and recent passages from published reports related to Poland fra.europa.eu

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Data Explorers and Tools

Violence against women survey data explorer

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-violence-against-women-survey>

EU LGBT Survey data explorer

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/survey-data-explorer-lgbt-survey-2012>

Indicators on the right to political participation of people with disabilities

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/political-participation>

Mapping victims' right and support in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/victims-support-services>

Mapping child protection systems in the EU

<http://fra.europa.eu/en/publications-and-resources/data-and-maps/comparative-data/child-protection>

Annual Reports

Fundamental Rights Report 2016 – Annual Report 2016 (May 2016)

http://fra.europa.eu/sites/default/files/fra_uploads/fra-2016-fundamental-rights-report-2016-2_en.pdf

Focus: Asylum and Migration into the EU in 2015

“Hundreds of asylum seekers were able to avoid moving from shelter to shelter thanks to the help of volunteers who opened their doors to them in a number of Member States. In a year that saw large numbers of asylum seekers struggling to find emergency accommodation, local initiatives such as *Flüchtlinge Willkommen* (Refugees Welcome) helped match asylum seekers with host families. In 2015, 251 asylum seekers were welcomed into homes in Germany and 240 into homes in Austria. This initiative is also in place in Greece, Italy, the Netherlands, Poland, Portugal, Spain and Sweden.” (p. 20)

1. Charter of Fundamental Rights and Its Use by Member States

1.2. National Legislative Processes and Parliamentary Debates: Limited Relevance of the Charter

“In countries such as Belgium, Croatia, Denmark, Estonia, France, Germany, Greece, Italy, Lithuania and Poland, impact assessments [in order to ‘examin[e] the potential impact of different aspects of legislative proposals] are mandatory.” (p. 48)

1.2.2. Assessment of Fundamental Rights Compliance

“Draft legislation was particularly often checked against the Charter in the areas of data protection and intelligence: 27 of the 46 compliance checks concerned these two areas, with one third of the assessments pertaining to data protection. For instance, in Poland, the modification of the Act on Police prompted the Inspector General for Personal Data Protection to intervene, with her opinion referring to the respect for private and family life (Article 7) and the protection of personal data (Article 8).” (p. 49)

1.2.4. Parliamentary Debates

“In Poland, the Charter was referred to, for instance, in the context of reforming the Constitutional Tribunal: a senator argued that limiting the disciplinary procedure for judges to one single instance was contrary to the Charter.” (p. 50)

2. Equality and Non-discrimination

2.2. Promoting Equal Treatment by Supporting the Ageing Population and Tackling Youth Unemployment

“[The outcomes of the Active Ageing Index show that] Member States should increase the rate of employment of older men and women if they are to foster social inclusion: Austria, Bulgaria, Croatia, the Czech Republic, Finland, Greece, Hungary, Ireland, Italy, Luxembourg, Malta, Poland, Slovakia, Slovenia and Spain.” (p. 62)

3. Racism, Xenophobia and Related Intolerance

3.2. Countering Hate Crime Effectively: Full Implementation of Relevant EU *Acquis* Required

“In other Member States, such as Romania and Poland, representatives of the judiciary were trained in investigating hate crime case [...]” (p. 82)

“Poland introduced a system to flag hate crimes in the police database, which makes it possible to identify hate crimes regardless of an offence’s legal qualification.” (p. 82)

4. Roma Integration

4.2. Going Local- Implementing National Roma Integration Strategies on the Ground

“The Commission’s 2015 report on the implementation of the EU Framework for NRISs recognised the key competences of local-level actors to address challenges – for example, in housing and education – but noted that “the involvement of local authorities in implementation varies widely. The report also noted progress in drawing up, revising and planning local level action plans in Member States, such as Bulgaria, the Czech Republic, Greece, Hungary, Ireland, Italy, **Poland**, Romania, Slovenia, Spain and Sweden.” (p. 102)

5. Information Society, Privacy and Data Protection

5.1.3. EU Member States revisit their intelligence laws

“Several other Member States – such as Austria, the Czech Republic, the Netherlands, **Poland**, and Portugal – began the process of reforming their intelligence laws.” (p. 120)

5.2.1. Co-Legislators Reach Agreement on Reforming the EU Data Protection Package

“In **Poland**, the Inspector General for the Protection of Personal Data and the Chief of Police signed a cooperation agreement, agreeing to cooperate in the area of data protection and committing to helping each other in performing tasks set out in law. The cooperation covers research, educational, promotional and publishing activities. The partnership aims to exchange experiences and increase police officers’ professional qualification in the area of data protection.” (p. 123)

5.2.3. Data Retention Regime Remains in Flux

“In **Poland**, where the Constitutional Tribunal declared the respective national regulation partially null and void in 2014, the Senate followed up by submitting a new draft act in 2015. NGOs and the Parliamentary Bureau of Analysis responded critically, noting that the revised law does not offer independent control mechanisms or limit data collection to the most serious crimes, and provides for an imprecise and discretionary period of retention.” (p. 125)

6. Rights of the Child

6.3.1. Diverse Efforts Emphasise Rights of Children Accused or Suspected of Crimes

“The ECtHR’s ruling in *Grabowski v. Poland* (No. 57722/12 from 30 June 2015.) also scrutinised the detention of juveniles. It held that continuing to detain a juvenile in a shelter for juveniles under an order referring his case for examination in correctional proceedings – without a separate judicial decision or review – violated the juvenile’s right to liberty and security, guaranteed by Article 5 (paragraphs 1 and 4) of the ECHR. In the court’s view, the problems identified in the applicant’s case could give rise to other well-founded applications, given that – according to statistics as of 2012 – 340 juveniles were apparently similarly placed in shelters. The court therefore called on **Poland** to take legislative measures to stop this practice and to ensure that specific judicial decisions authorise each and every deprivation of a juvenile’s liberty.” (p. 148)

7. Access to Justice, Including the Rights of Victims

7.1. European and international actors continue to push for stronger rule of law and justice

“In 2015, EU institutions again raised concerns about the situation in Hungary, and for the first time also with regard to **Poland**.” (p. 162)

“Regarding **Poland**, the Commission announced plans to review the situation in the country in January 2016, following legislative amendments made in 2015 to the composition and powers of its constitutional court as well as to its media law.” (p. 162)

7.2. Progress on EU directives strengthens procedural rights in criminal proceedings

“In **Poland**, the Ministry of Justice adopted a regulation on the model letter of rights” (p. 164)

7.3.1. Transposing the Victims' Rights Directive: Progress and Challenges

“Five EU Member States registered transposition of the Victims' Rights Directive with the European Commission by 16 November 2015: the Czech Republic, Malta, Portugal, Spain and Sweden. By January 2016, the addition of Estonia, Finland, Germany, Hungary, Italy, Poland and the United Kingdom brought the total to 12.” (p. 167)

7.4.2. Member State Effort to Combat Violence against Women: Legislation and Policy

“Meanwhile, the influence of the Istanbul Convention grew, with numerous countries adopting measures in line with its goals of preventing violence against women, enhancing victim protection and prosecuting perpetrators. Finland, the Netherlands, Poland and Slovenia ratified the convention, bringing the total number of EU Member States that have ratified it to 12. [...] The government of Poland changed in October 2015, with the Law and Justice Party (PiS) now leading it. This party opposed ratification of the Istanbul Convention and very actively participated in the ratification debate, so it remains to be seen if this change in government will negatively affect the convention's implementation in Poland.” (p. 172)

7.4.3. Countering violence against women with targeted projects and studies

“In 2015, a foundation and two associations – the STER Foundation, in cooperation with the WAGA Association and the VICTORIA Association for Women – began a project in Poland to improve society's knowledge and awareness of rape.” (p. 174)

8. Developments in the Implementation of the Convention on the Rights of Persons with Disability (CRPD)

8.2. The CRPD and the EU Member States: a Driver of Change

“Meanwhile, Bulgaria, the Czech Republic, Poland, Romania, and the EU have still not ratified the Optional Protocol to the CRPD, which allows for individuals to bring complaints to the CRPD Committee.” (p. 189)

Fundamental Rights: Challenges and Achievements in 2014 – Annual Report 2014 (June 2015)

<http://fra.europa.eu/en/publication/2015/fundamental-rights-challenges-and-achievements-2014>

1. Equality and Non-discrimination

1.2. Using the Targeted Investment of EU Funds to Foster Social Inclusion

“Member States also took steps to begin training staff involved in the management and control of ESIF on EU anti-discrimination law and policy [...]. This happened in Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden.” (p. 31)

“[S]ome Member States have consulted or plan to consult with bodies in charge of protection of rights of persons with disabilities or disabled persons organisations (DPOs). This was the case in Austria, Belgium, Bulgaria, Cyprus, Denmark, Estonia, France, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Spain and Sweden.” (p. 31)

2. Racism, Xenophobia and Related Intolerance

2.2. Racism, Xenophobia and Ethnic Discrimination Persist in the EU

“In Poland, the Prosecutor General issued guidelines under which prosecutors should aim to establish whether a perpetrator intended to insult the victim on the grounds of his or her affiliation to national, ethnic, racial, religious or non-religious group.” (p. 54)

2.3. Improving the Recording and Encouraging the Reporting of Hate Crime

“In Poland, the Ministry of the Interior runs a multilingual nationwide campaign, ‘Racism. Say it to fight it’, aiming to increase awareness among foreigners and migrants of how and where to report racism and racist incidents.” (p. 58)

4. Asylum, Borders, Immigration and Integration

4.2. Fundamental Rights Remain Central in Return Policy Discussions

“Forced return monitoring under Article 8(6) of the Return Directive (2008/115/EC) can be taken as an example of how fundamental rights safeguards included in the Return Directive are implemented in practice. Six years after the adoption of the Return Directive and four years after Member States were required to transpose it into national law, [...] [t]en Member States (Croatia, Finland, France, Greece, Italy, the Netherlands, Poland, Portugal, Romania and Slovenia), amended their legislation to establish independent monitoring systems in 2014. [...] In Poland, the new Aliens Act entered into force, codifying the existing practice of NGOs monitoring returns. Further agreements on cooperation are planned, to establish a permanent group of monitors.”(pp. 89–91)

4.6. EU Member State Measures Promoting Inclusive Societies

“... in the last year, 12 Member States (Belgium, Bulgaria, Cyprus, Estonia, Finland, France, Lithuania, Poland, Portugal, Romania, Sweden and the United Kingdom) have not implemented any concrete measure for migrant integration and inclusion targeting the general population.” (p. 96)

4.7. Transforming Education, Reflecting Diversity in Society

“FRA has looked into the way Member States respond to this challenge. [...] In primary or secondary education, most EU Member States do teach about different cultures in society. It is part of the curriculum in both primary and secondary education in the Czech Republic, Denmark, Germany, Latvia, the Netherlands and Poland.” (pp. 97–98)

5. Information Society, Privacy and Data Protection

5.1. Mass Surveillance Continues to Spark Global Concern

“Investigatory powers, especially the powers to request and/or access data relating to the data-processing activities and premises relevant for the data-processing activities, are also limited (France, Germany, Ireland and Poland). Some DPAs [Data Protection Agencies] are not endowed with the power to handle complaints by individuals and issue binding decisions (Belgium, Poland).” (p. 112)

7. Access to Justice, Including Rights of Crime Victims

7.2. EU and Member States progress on the Roadmap on Procedural Rights in Criminal Proceedings

“The EU Member States that proposed or adopted new legislation or amended existing laws with a view to transposing the Directive on the right to information [...]. The implementing law in Poland was supplemented with a series of information templates on the rights of suspected and accused persons, adopted by the Minister of Justice in 2014.” (p. 148)

Fundamental Rights: Challenges and Achievements in 2013 – Annual Report 2013 (June 2014)

<http://fra.europa.eu/en/publication/2014/fundamental-rights-challenges-and-achievements-2013-annual-report-2013>

4. The Rights of the Child and the Protection of Children

4.1. Europe Takes Steps to Improve Access to Child-Friendly Justice

“The Criminal Code and the Code of Criminal Procedure in Poland have been reviewed. Now a hearing with a child may take place in a specially adapted room either on or outside the premises of the court.

Additionally, such hearings will have to be recorded. A hearing with a victim will be allowed only if the testimony is relevant to the proceedings; the hearing shall be conducted only once, unless there is evidence of relevant circumstances that need to be explained in a second hearing, or it is requested by the accused if he or she had no counsel at the time of the first interview with the victim. This protection covers children who, at the time of a hearing, are under 15 years of age. Children aged over 15 years are obligatorily heard in the conditions mentioned above only if there is a reasonable risk that hearing them in other conditions could have a negative impact on their mental state. Additionally, the application of these procedures has been extended to witnesses.” (p. 105)

“In **Poland**, the amendment to the Act on juvenile justice introduces a maximum time for which a child may be detained in a juvenile police shelter following a decision to place him or her in a shelter or with a foster family. The act also clarifies and enumerates the rights of children detained in juvenile police shelters and rules on the obligation to inform a minor about his or her procedural rights.” (p. 105-106)

6. Racism, Xenophobia and Related Intolerance

6.4. Responses to Manifestations of Racism, Xenophobia and Related Intolerance

“The Council for the Prevention of Racial Discrimination, Xenophobia and Related Intolerance was established in **Poland** in February. It is responsible for monitoring and analysing the occurrence of racist and xenophobic incidents and promoting activities to counter racial discrimination, xenophobia and related intolerance.” (p. 158)

7. Roma Integration

7.2. Member States begin Implementation of National Roma Integration

“**Poland** provides Roma assistants and tutors to help Roma children, and there are assistants for the entire Roma community. Teachers and students attend courses on Roma culture, and teachers learn how to prevent discrimination.” (p. 174)

8. Access to Justice and Judicial Cooperation

8.2. Member States Reform Court Procedures to Facilitate Access to Justice

“In 2013, as in 2012, Bulgaria, Greece, Italy, **Poland** and Romania had the largest numbers of pending leading cases, or non-repetitive cases that relate to general or structural problems that only legislation can address.” (p. 197)

9. Rights of Crime Victims

9.1. EU Member States Take Steps to Enhance Victims’ Rights

“**Poland** amended its Criminal Code of Procedure to bring it in line with the Victims’ Directive. Crucially, the new law introduces the formal obligation to inform victims about their specific rights in preparatory proceedings. The amendment also gives victims and suspects equal rights to access case files in pre-trial proceedings. Victims must be informed about this right at the beginning of the investigation. The new law also introduces the right to interpretation for non-Polish-speaking victims.” (p. 212)

Thematic Areas

Access to Justice

Freedom to Conduct A Business: Exploring the Dimensions of a Fundamental Right (August 2015)

<http://fra.europa.eu/en/publication/2015/freedom-conduct-business-exploring-dimensions-fundamental-right>

2.3.3. Scope of the Freedom to Conduct a Business: Public Interest Case Law

“In **Poland**, limitations upon economic freedom may be imposed only by means of statute and only for important public reasons. However, this is a lower threshold than the one required for limiting other constitutional freedoms and rights.” (p. 30)

3. Exercising the Freedom to Conduct a Business in Practice: Selected Obstacles and Promising Practices

“The general quality of laws and their alleged rigidity, particularly in the field of employment legislation, was referred to as an obstacle in **Poland** and the United Kingdom, as well as in Ireland, where the system of corporate law is often criticized for being too complex and outdated.” (p. 37)

3.2. Freedom to Conduct a Business and Access to Justice

“E tools have been introduced in some countries, including Estonia, **Poland** and Slovakia, to make court proceedings less bureaucratic and lengthy. The initiation of civil, administrative and criminal judicial proceedings online can indeed represent a secure, fast and convenient way to claim rights related to the freedom to conduct a business.” (p. 48)

“A specific concern regarding the competence and sufficient expertise of appointed experts at courts was highlighted in **Poland**. The **Polish** courts often rely on the assessment of the appointed court experts, especially when the case requires highly specialist knowledge in the area of economics. Opinions of incompetent court experts who lack knowledge in the field of economics have a negative impact on entrepreneurs seeking justice.” (p. 50)

Severe Labour Exploitation: Workers Moving Within or Into the European Union (June 2015) <http://fra.europa.eu/en/publication/2015/severe-labour-exploitation-workers-moving-within-or-european-union>

4.1. Mandate to Monitor the Exploitation of Workers

“As experts interviewed in Germany, Greece, **Poland**, Slovakia, Spain and the United Kingdom highlighted, the resources available for monitoring and inspection services are limited, with significant understaffing resulting in few inspections.” (p.65)

“With regard to the agricultural sector in **Poland**, no authority is permitted to monitor the working conditions on private farms.”(p. 67)

5.2. Who is a Victim?

“In Germany, the Netherlands, **Poland** and the United Kingdom, support services providing accommodation or medical care are accessible only after victims are officially recognised as such by the police or public prosecutors.” (p. 77)

5.5. Compensation and Back-Payments

“In a significant number of EU Member States – including Austria, Belgium, Bulgaria, Finland, France, Germany, Greece, Hungary and **Poland** – evidence supports the view that, for victims of labour exploitation, the conditions for accessing rights and justice are, at best, precarious.” (p. 84)

Victims of Crime in the EU: The Extent and Nature of Support for Victims (January 2015) <http://fra.europa.eu/en/publication/2014/victims-crime-eu-extent-and-nature-support-victims>

3.1. Public or Private Provision of Victim Support

“In addition to other funding sources, several EU Member States generate money for victim support services through a ‘Victims of Crime fund’ or the like, whereby persons convicted of an offence pay a fine to help the funding of services for victims of crime; for example, in Belgium, Denmark, Lithuania, **Poland**, Portugal, Sweden and the United Kingdom.” (p. 62)

5.1. Quality Standards

“In **Poland**, the Ministry of Justice adopted uniform standards of work for victim support services, specifying, for instance, requirements of confidentiality and victims’ consent.” (p. 92)

Gender Equality

Violence against Women: An EU-Wide Survey. Main Results Report (March 2014)

http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results-apr14_en.pdf

2. Prevalence of Physical and Sexual Violence

“Recognising that intimate partner violence is often repetitive in nature, legislation in several EU Member States – including Austria, the Czech Republic, France, Hungary, Italy, **Poland**, Portugal, Slovakia, Slovenia and Sweden – reflects this by providing criminal law definitions that allow criminal proceedings to address the wider pattern of relational violence.” (p. 53)

Table 1: Women who have experienced physical and/or sexual violence by a current or previous partner, or by any other person since the age of 15, by EU Member State (%)^{a,b,c}

EU Member State	Any partner (current and/or previous) ^b	Non-partner ^c	Any partner and/or non-partner ^c
AT	13	12	20
BE	24	25	36
BG	23	14	28
CY	15	12	22
CZ	21	21	32
DE	22	24	35
DK	32	40	52
EE	20	22	33
EL	19	10	25

ES	13	16	22
FI	30	33	47
FR	26	33	44
HR	13	13	21
HU	21	14	28
IE	15	19	26
IT	19	17	27
LT	24	16	31
LU	22	25	38
LV	32	17	39
MT	15	15	22
NL	25	35	45
PL	13	11	19
PT	19	10	24
RO	24	14	30
SE	28	34	46
SI	13	15	22
SK	23	22	34
UK	29	30	44
EU-28	22	22	33

Notes: a The results in the first two columns of the Table do not sum up to the results in the third column due to the different computational base of the results (results on partner violence are based on respondents who have or have had a partner, as opposed to all women) and the fact that some respondents have experienced violence by both their partners and non-partners.
b Out of all women who were either married, living together with someone without being married, or involved in a relationship (without living together) at the time of the interview, or at any time in the past (n = 40,192).
c Out of all respondents (N = 42,002).
Source: FRA gender-based violence against women survey data set, 2012

Violence against women: an EU-wide survey – Results at a Glance (2014), p. 19

Hate Crime

Ensuring Justice for Hate Crime Victims: Professional Perspectives

<http://fra.europa.eu/en/publication/2016/ensuring-justice-hate-crime-victims-professional-perspectives>

1.2. Public Discourse

“Professionals interviewed in **Poland** stated that there is a certain level of social acceptance of homophobic messages in the public sphere.” (p. 20)

“Interviewees in **Poland** observed an increase of hate speech directed against Roma communities, including in the media, press and internet.” (p. 21)

1.4. Weaknesses of Conceptual Frameworks

“[I]n 2013, the Prosecutor General of **Poland** instructed appellate prosecutors to choose, within the jurisdiction of each regional prosecution, one or two district prosecution bureaus that will be responsible for conducting preparatory proceedings in cases of hate crime. Within these bureaus, two prosecutors should be appointed to conduct criminal proceedings in hate crime cases. As part of this initiative, the General Prosecutor’s Office organised training for prosecutors on violations of the rights of individuals based on their national and ethnic origins or religious belief, promoting fascism and other totalitarian systems and hate speech. The practice allows for the creation of a group of trained prosecutors who will be able to specialise in, and devote their time to, hate crime.”

3.1. Support Available to Hate Crime Victims

“A striking general finding with regard to interviewees’ responses is a lack of awareness or agreement between experts on the actual availability of such services (e.g. in Ireland, Luxembourg and Portugal). For example, in **Poland**, all respondents from victim support services stated that psychological assistance to hate crime victims is not provided by the police, but by NGOs, while three out of four interviewees from the police said that psychological assistance is available to victims and is provided by the police.” (p. 38)

4.4. Skills Training

“Consequently, professionals in several Member States – including Malta, the Netherlands, **Poland**, Slovakia, and Sweden – emphasised the need for more training to equip officers with the skills needed to properly deal with hate crime.” (p. 49)

Information Society, Privacy and Data Protection

Surveillance by Intelligence Services: Fundamental Rights Safeguards and Remedies in The EU (November 2015)

<http://fra.europa.eu/en/publication/2015/surveillance-intelligence-services>

2.3.2. Data Protection Authorities (DPAs)

“In nine Member States (Belgium, Cyprus, France, Germany, Greece, Ireland, Italy, **Poland**, Lithuania), DPAs have limited powers over intelligence services [updated in forthcoming publication as ten Member States as recently the United Kingdom has also granted DPAs limited powers over its intelligence services]. While these DPAs have the power to issue non-binding recommendations on general matters related to national intelligence services’ surveillance, limitations vary considerably by Member State.” (p. 47)

“Some DPAs lack the power to handle complaints of individuals related to data processing activities by intelligence services, or to issue binding decisions (Belgium, **Poland**).” (p. 48)

3.1. A Precondition: Obligation to Inform and the Right to Access

“The obligation to information and the right to access are not provided for in eight Member States (the Czech Republic, Ireland, Latvia, Lithuania, **Poland**, Slovakia, Spain and the United Kingdom).” (p. 62)

LGBTI Rights

Professionally Speaking: Challenges to Achieving Equality for LGBT People (March 2016)

<http://fra.europa.eu/en/publication/2016/professional-views-lgbt-equality>

1.1. Drivers Protecting and Promoting the Fundamental Rights of LGBT People

“[I]n some Member States, such as **Poland**, many of the officials interviewed had limited knowledge of LGBT issues. Some of the representatives of **Polish** institutions that deal with equality as part of their mandate had a firm grasp of the issues (including the discrimination LGBT persons face and the issues that are relevant to them, such as partnership rights), whereas those representing education and healthcare had very little knowledge.” (p. 22)

“In **Poland**, for example, a national plan is to cover all discrimination grounds listed in the Act on Implementation of Certain Regulations of the European Union on Equal Treatment, including sexual orientation. It will also refer to gender identity. According to the interviewees from the office responsible for drafting the plan, it will address particular areas of life, including education, employment, violence against vulnerable groups and healthcare. It will define tasks and assign them to individual ministries and state institutions (according to public authority representatives, including a head official and officer, from a **Polish** equality body).” (p. 25)

1.2. Barriers to Making Fundamental Rights a Reality for LGBT People

“Although the political context varies considerably across the different Member States, respondents in Member States such as Austria, Bulgaria, Finland, Greece, Latvia, Malta, Poland and Romania indicated that some political parties adopt homophobic and/or transphobic positions.” (p. 31)

3.1. EU LGBT Survey and Legal Framework in the Member States of the Research

“Six EU Member States studied (Bulgaria, Italy, Latvia, Poland, Romania and Slovakia) do not have any specific legal measures that take into consideration the motivation of homophobic or transphobic hate crimes.” (p. 49)

4.1. Healthcare for Lesbian, Gay and Bisexual Persons

“It was reported that, in Poland, LGB identities are either overlooked in medical school or presented as a mental illness or sexual behaviour disorder.” (p. 72)

4.2. Healthcare for Trans Persons

“Practitioners reported problems for trans people in Poland, where they are unable to access healthcare funds if they have not undergone full genital reassignment surgery, because health insurance is provided on the basis of the assigned gender of the individual.” (pp. 80–81)

Protection against discrimination on grounds of sexual orientation, gender identity and sex characteristics in the EU – Comparative legal analysis – Update 2015 (December 2015)

<http://fra.europa.eu/en/publication/2015/lgbti-comparative-legal-update-2015>

1.1. Access to and Legal Recognition of the Preferred Gender

“In Poland, the draft Gender Accordance Act (*Projekt ustawy z dnia 3 stycznia 2013 o uzgodnieniu płci*) was introduced in parliament in January 2013, aimed at creating a formal procedure for gender recognition in that country. However, after the parliament adopted the legislation, Poland’s president vetoed it.” (p. 17)

1.3. Legal Recognition of a Person’s Gender Identity

“In Poland, a trans person who is married must divorce if he or she wishes to undergo gender reassignment, and, if he or she is the sole guardian of children, must wait with the gender reassignment until the children are of age. If there is another parent, the court will transfer custody to that other parent. In its most recent judgment concerning legal gender recognition, the Polish Supreme Court confirmed that the gender reassignment of a trans woman could not be legally recognised because the person had accessed sex reassignment without previously informing the authorities that she was married. The court noted that, if her gender were legally recognised, the existence of her marriage would violate Article 18 of the Constitution, according to which “[m]arriage, being a union of a man and a woman, as well as the family, motherhood and parenthood, shall be placed under the protection and care of the Republic of Poland”.” (p. 20- Poland, Supreme Court (*Sąd Najwyższy*), I CSK 146/13, 6 December 2013.)

2.1. Substantive Issues

“[A]nti-discrimination legislation is currently subject to comprehensive review in Finland and Poland. [...] In Poland, the legislation has recently repeatedly been changed, and parliament has been debating a new bill. In December 2010, the Polish parliament approved a law on equal treatment, which guarantees protection on sexual orientation grounds only to the extent of the Employment Equality Directive. Then, in 2011, parliament banned the broadcasting of commercials that include content considered discriminatory on the ground of sexual orientation. Finally, in June 2013, parliament started to discuss a bill that extends the prohibition of sexual orientation discrimination to all areas mentioned in the Racial Equality Directive. The bill was approved by the majority of the Lower House of the Parliament (*Sejm*) in its first reading on October 2013 and was referred to the Parliamentary Committee for Justice and Human Rights (*Komisja Sprawiedliwości i Praw Człowieka*) for further legislative work.” (p. 26)

People with Disabilities

Violence against Children with Disabilities: Legislation, Policies and Programmes in the EU (December 2015)

<http://fra.europa.eu/en/publication/2015/children-disabilities-violence>

2.3. Challenges to Implementing National Law and Policies

“The active participation of psychologists in cases involving children with mental disabilities in **Poland** is an encouraging example.” (p. 48)

3.2. Causes of Violence against Children with Disabilities

“A respondent from **Poland** noted the lack of education about different types of disabilities, and argued that communication barriers could be leading factors in hostile behaviour against children with hearing impairments.” (p. 62)

Implementing the UN CRPD: An Overview of Legal Reforms in EU Member States (May 2015)

<http://fra.europa.eu/en/publication/2015/implementing-un-crpd-overview-legal-reforms-eu-member-states>

2.7. Participation in Political and Public Life

“In Belgium, **Poland** and Sweden, steps are being taken to increase the accessibility of voting procedures, facilities or materials. The **Polish** act amending the Electoral Code Act, adopted in July 2014, aims to enhance the participation of people with disabilities by making polling stations and voting procedures more accessible. Among other provisions, it requires that half of all polling stations in each municipality are accessible for people with disabilities.” (p. 13)

The Right to Political Participation for Persons with Disabilities: Human Rights Indicators (May 2014)

<http://fra.europa.eu/en/publication/2014/right-political-participation-persons-disabilities-human-rights-indicators>

2.1. The Legal Status of the CRPD in EU Member States

“Of the EU Member States that have ratified the CRPD, Estonia, France and **Poland** have entered a declaration to Article 12. These declarations provide that they will implement Article 12 in accordance with their respective national legislation, which in each case allows restrictions on the right to vote of persons deprived of legal capacity. The declarations therefore have the effect of limiting the right to political participation of persons who have been deprived of their legal capacity. [...] In its declaration, **Poland** confirms it will continue to restrict the legal capacity of people with disabilities as it views such a restriction as a type of safeguard under Article 12(4).” (pp. 36–37)

2.2. The Legal Status of the Right of Persons with Disabilities to Vote in EU Member States

“In Ireland, Luxembourg and **Poland**, however, postal voting is available for persons whose disability or health problem prevents them from getting to a polling station, while proxy voting is a possibility for these individuals in **Poland** and Sweden.” (p. 43)

“In 15 EU Member States, Croatia, Cyprus, the Czech Republic, Denmark, Finland, Germany, Hungary, Ireland, **Poland**, Portugal, Slovakia, Slovenia, Sweden and the United Kingdom, assistance in voting is available to persons with physical, visual and intellectual disabilities, subject to the authorisation of the election authorities.” (p. 50)

“[I]n Croatia, Latvia, Lithuania, Poland and Slovakia, legislation specifically prohibits election officials from providing assistance.” (p. 51)

Rights of the Child

Guardianship Systems for Children Deprived of Parental Care in the European Union (October 2015)

<http://fra.europa.eu/en/publication/2015/guardianship-children-deprived-parental-care>

5.5. Legal Representation

“In Poland, according to the Code of Civil Procedure, the child has the right to choose a particular lawyer; the court, considering the options available, and in agreement with the selected lawyer, appoints him/her as the lawyer for the particular case. Since the Polish Code of Criminal Procedure does not contain provisions on the procedure used to appoint a lawyer, the provisions described above can be applied by analogy in criminal proceedings. This implies that, to a certain extent, the child victim of trafficking or his/her legal representative (e.g. a guardian) are allowed to choose their lawyer.” (p. 56)

Child-Friendly Justice: Perspectives And Experiences of Professionals on Children’s Participation in Civil and Criminal Judicial Proceedings in 10 EU Member States (May 2015)

<http://fra.europa.eu/en/publication/2015/child-friendly-justice-perspectives-and-experiences-professionals-childrens>

1.5.1. Ensuring Professionals are Adequately Equipped to Work with Children

“In Croatia, Estonia, Finland and Poland, hearings are predominantly conducted by social professionals.” (p. 42)

“Children in Poland are usually heard in indirect hearings with psychologists in family diagnostic centres. Alternatively, a court-appointed family guardian may conduct interviews with children in their homes during the pre-trial period, to prepare a ‘community interview’ that gives information about the children’s social environment based on a guided conversation. Parents have the right, however, to ask the judge to hear their child in person. Judges may also opt to hear the child if they have doubts arising from the family diagnostics centre’s psychological opinion. Respondents suggested that indirect child hearings have a positive impact on the proceedings. The court-appointed guardian may also stay in regular contact with the child during the pre-trial and trial period.” (p. 43)

4.1. Structural Indicators (Legal Obligations)

“All countries studied except for Poland and the United Kingdom (Scotland) also recognise the importance of the principle of evolving capacity, according to which children should be treated in an individualised manner based not exclusively on their age but on their degree of maturity.” (p. 89)